

**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

**ENERGY DIVISION**

**RESOLUTION E-3827**

**June 19, 2003**

**R E S O L U T I O N**

Resolution E-3827. Pacific Gas and Electric (PG&E), Southern California Edison Company (SCE), and San Diego Gas & Electric Company (SDG&E) each submitted an Advice Letter (AL) to establish a pilot program to provide net energy metering for eligible biogas digester customer-generators in compliance with Assembly Bill (AB) 2228.

The advice letters request authority to offer new electric rate schedules to provide net metering service for bundled customers with an eligible biogas digester generating facility. The tariffs would expire when the total cumulative rated generating capacity used by eligible biogas customer-generators reaches 5 MW, or until January 1, 2006, whichever comes first. Approved with modifications.

By Advice Letters Filed on March 3, 2003.

PG&E - 2350-E

SCE - 1692-E

SDG&E – 1475-E

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**SUMMARY**

This Resolution approves with modifications requests by PG&E, SCE, and SDG&E to establish pilot programs to offer net metering service for eligible biogas digester generating facilities.

With this resolution, we approve each utility's proposal for customer eligibility, load aggregation for dairy operations, and interconnection. We sustain the biogas protestants' position regarding calculation of energy surcharges, and clarify the methodology used to calculate the customer-generators' credit for generation produced versus generation consumed. We reject the protestants' interpretation that AB 2228 establishes a biogas net metering pilot which is identical to the solar and wind program.

## **BACKGROUND**

### **AB 2228 extends net metering to customers with an electric generating facility fueled with waste gas (biogas) from animal byproducts.**

AB 2228 directs the utilities to establish a net energy metering pilot program for eligible biogas customer-generators. Net metering measures the difference between electricity supplied by the utility and electricity generated by the customer's facility. The facility must meet specific criteria to be eligible for net metering:

- Produce electricity by a manure methane production project *or* as a byproduct of anaerobic digestion of bio-solids and animal waste
- Capacity of one megawatt or less
- Sized to serve part or all of the customer's electric load
- Located on or adjacent to the customer's owned, leased, or rented property
- Interconnected to the electric grid
- Receive local, state, or federal funds, *or* self-finance projects to encourage development of biogas facilities

### **A dairy may combine accounts to calculate net consumption/production.**

To determine if a dairy operation is a net consumer or a net producer of electricity, the utility will aggregate electrical load under the same ownership. Examples of load include milking operation, milk refrigeration, and water pumping located on property adjacent or continuous to the dairy.

### **Customers receive credit at the utility retail generation price per kWh in effect during the time of generation.**

The customer must choose a Time-of-Use "otherwise applicable" rate schedule, a time-of-use meter capable of registering two-way flow, or a time-of-use meter plus an additional two-way meter. When the customer-generator is a net generator during any discrete time-of-use period, the net kilowatthours produced will be valued at the same retail price per kWh as the utility charges for generation during that same time-of-use period, excluding any surcharges.

The utility will measure the difference between electricity generated by the customer and energy supplied by the utility within a 12-month period. The 12-

month period begins on the date of final interconnection to the utility system. If the customer is a net consumer, net generation charges are owed to the utility. If the customer is a net generator, the utility retains the excess generation. The utility does not compensate the customer-generator for generation in excess of consumption.

**Non-generation charges are calculated on total kWhs delivered by the utility.** All charges other than generation are calculated using the customer-generator's otherwise applicable rate schedule, and based on the total kWhs delivered by the utility to the customer. If transmission and distribution services are recovered through demand charges in any given month, no standby reservation charges apply. Charges other than generation are paid according to the utility's normal billing cycle.

**AB 2228 sets maximum cumulative capacity levels and a program sunset date.** The utility will offer the pilot net energy metering program on a first-come, first-served basis, until the total cumulative generating capacity of eligible biogas digesters equals five MW within the utility's service territory. The combined statewide cumulative capacity in all three utility service territories may not exceed 15 MW. The pilot program is in effect for each utility until January 1, 2006, or until maximum allowed capacity is achieved.

## **NOTICE**

Notice of Advice Letters 2350-E, 1692-E, and 1475-E were made by publication in the Commission's Daily Calendar. PG&E, SCE, and SDG&E state that copies of the respective Advice Letters were mailed and distributed in accordance with Section III-G of General Order 96-A.

## **PROTESTS**

SCE's AL 1692-E was timely protested by Roy Sharp Energy, Inc. (Sharp).

SCE responded to Sharp's protest on March 31, 2003.

Sharp states he owns 4 biogas QFs. He contends that SCE should modify the proposed tariff to conform with older contracts which compensated excess net energy at avoided cost.

Late protests to the three utilities' advice letters were filed by Sustainable Conservation, the Western United Dairymen (WUD), RCM Digesters, Inc. (RCM), the Inland Empire Utility Agency (IEUA), and the Milk Producers Council (Milk Producers).

The protestants argue that the proposed tariffs calculate the energy credit incorrectly, and contrary to the intent of AB 2228:

1. PG&E and SDG&E incorrectly separate the generation charge into two components: a "generation rate" and a "generation surcharge."
2. The utilities apply all charges other than energy charges, including surcharges, to a facility's total consumption, including customer-produced generation.
3. The proposed biogas tariff does not credit the customer-generator with transmission, distribution, nuclear decommissioning, public goods charge, or the DWR Bond Charge if the customer is a net producer. The Legislature's intent is for biogas customer-generators to receive identical rate treatment to solar and wind net metered customers.
4. The average credit per kWh methodology proposed by PG&E and SDG&E to calculate the generation credit is overly complex and unnecessary.

Sustainable Conservation recommends the Commission require the utilities to submit an example of how the proposed tariff would be applied to a specific customer.

On April 9, the Energy Division suspended the three advice letters through August 7, 2003, pending further review.

PG&E, SCE, and SDG&E responded to the protests from Sustainable, WUD, and RCM.

## **DISCUSSION**

Energy Division has reviewed AL 2350-E, 1692-E, and 1475-E, and the protestants' letters. Discussion of the relevant facts that lead to the approval and modifications of these advice letters is set forth below.

**The utility shall calculate energy surcharges based on net energy monthly consumption. Charges other than generation are based on the total kWhs delivered to the customer by the utility.**

In accordance with Section 2827.9 (e) (2) (A), generation charges for net monthly consumption are calculated according to the customer's otherwise applicable tariff. We agree with the protestants that customer-generators will pay energy surcharges only on net consumption. Accordingly, when a customer is a net generator, generation is valued at the same rate as retail generation sales, minus surcharges.

The Commission is sympathetic to the protestants' argument that the Legislature intended for the utilities to similarly calculate net generation, delivery, and nonbypassable charges for solar, wind, and biogas net metered facilities. Unfortunately, the Commission cannot sustain this argument. AB 2228 itself does not support this position, as Section 2827.9(e)(2)(A) specifically states that charges other than generation and energy surcharges are calculated based on the total kWhs delivered to the customer by the utility. These charges include transmission, distribution, public goods, nuclear decommissioning, and any applicable departing load cost responsibility surcharges.<sup>1</sup> The same section also states that when the customer is a net producer, "the net kilowatthours produced shall be valued at the same price per kilowatthour as the electrical corporation would charge for retail kilowatthour sales for generation, *exclusive of any surcharges*, during that same time of use period" (Emphasis added).

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1. Subsequent to the adoption of AB 2228, the Commission provided an exemption to all customers eligible for net metering from payment of departing load cost responsibility charges in Decision (D.) 03-04-030 adopted April 8, 2003.

The methodology prescribed by AB 2228 provides no basis to calculate net generation based on utility avoided cost, as recommended by Sharp. Although Sharp does not specify what is meant by “older contract,” we assume it is a Standard Offer contract for QFs rather than the net metering contracts discussed in SB 2228.

We agree with Sustainable Conservation’s request that parties would benefit from utility examples of how the proposed tariffs would be applied to customers on an individual basis, and how the average credit per kWh would be determined, as proposed by PG&E and SDG&E. The utilities were asked to provide bill examples in their respective comments to this resolution.

## **COMMENTS**

Public Utilities Code (PU) section 311(g)(1) provides that this resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. The draft resolution was mailed to parties for comment pursuant to PU Code section 311(g)(1). Comments were filed by Sustainable Conservation on June 3, and by PG&E and SDG&E on June 4, 2003. PG&E and SDG&E filed examples of their respective proposed bill calculation methodology. PG&E filed reply comments on June 11. SCE submitted late filed comments, dated June 13 and received by the Energy Division on June 18, which included a sample bill calculation.

## **FINDINGS**

1. Assembly Bill 2228 was signed by Governor Davis on September 24, 2002.
2. PG&E, SCE, and SDG&E filed Advice Letters requesting Commission approval to implement a pilot net metering program for biogas digester generating facilities in accordance with Assembly Bill 2228.
3. Roy Sharp Energy, Inc. filed a timely protest to SCE AL 1692-E.
4. Late protests were filed to the three ALs by Sustainable Conservation, the Western United Dairyman, RCM Digesters, the Inland Empire Utility Agency, and the Milk Producers Council.
5. On April 9, 2003, the Energy Division suspended the ALs through August 7, 2003.

PACIFIC GAS AND ELECTRIC AL 2350-E  
SOUTHERN CALIFORNIA EDISON AL 1692-E  
SAN DIEGO GAS & ELECTRIC AL 1475-E

6. Energy surcharges shall be calculated based on net consumption.
7. Non-generation charges shall be based on the total kWhs delivered to the customer by the utility.
8. The protestants' protests are partially sustained.
9. Sharp's protest is denied.

**THEREFORE IT IS ORDERED THAT:**

1. Advice letters filed by PG&E (2350-E), SCE (1692-E), and SDG&E (1475-E), requesting Commission authorization to implement a pilot net metering program for biogas digester generating facilities, are approved with modifications.
2. The utilities will file revised tariffs within 10 days of the effective date of this resolution to reflect the modifications discussed herein.
3. This Resolution is effective today.

Resolution E-3827/vjb  
PACIFIC GAS AND ELECTRIC AL 2350-E  
SOUTHERN CALIFORNIA EDISON AL 1692-E  
SAN DIEGO GAS & ELECTRIC AL 1475-E

June 19, 2003

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on June 19, 2003; the following Commissioners voting favorably thereon:

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WILLIAM AHERN  
Executive Director

MICHAEL R. PEEVEY  
President  
CARL W. WOOD  
GEOFFREY F. BROWN  
Commissioners

I reserve the right to file a written concurrence.  
/s/ LORETTA M. LYNCH  
Commissioner

I will file a written concurrence.  
/s/ SUSAN P. KENNEDY  
Commissioner



**CONCURRING OPINION OF COMMISSIONER SUSAN P. KENNEDY:**

During the Commission's meeting, I supported resolution E-3827 that established pilot programs to provide net energy metering for eligible biogas digester customer-generators in compliance with Assembly Bill 2228. From a policy standpoint, I would have preferred to give biogas digesters all the advantages of net metering that are given to solar and wind generation, because the environmental benefits of these projects are completely the same. However, the law was drafted in such a way as to prevent us from netting out any so-called "surcharges," including the rate increases imposed during the energy crisis, for the energy that these generators provide back to the grid. Thus, the benefits of net metering to the customer only come on the "generation" portion of each customer's bill. This seems to me to be an aspect of the law on which we should seek an amendment from the Legislature. I support President Peevey's request that our Office of Governmental Affairs pursue this matter at the earliest opportunity.

Dated June 20, 2003, San Francisco, California